

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

GEORGE R. NEAL,

Plaintiff,

v.

**MICHAEL J. ASTRUE,
Commissioner of the Social
Security Administration,**

Defendant.

Case No. CIV-09-163-SPS

OPINION AND ORDER

The claimant George R. Neal sought judicial review of the decision by the Commissioner of the Social Security Administration (“Commissioner”) denying benefits pursuant to 42 U.S.C. § 405(g). The claimant argued, *inter alia*, that the Administrative Law Judge (“ALJ”) erred by: (i) overturning the Commissioner’s determination at the agency level that he was entitled to supplemental income benefits under Title XVI of the Social Security Act, 42 U.S.C. §§ 1381-1385; and, (ii) by denying disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 401-434, but failing to explain why such denial was not inconsistent the agency award of Title XVI benefits.

After the claimant filed his appellate brief, the Commissioner moved to remand the case to the ALJ for further consideration. The claimant objected in part, arguing that any remand should be solely for the purpose of reinstating his Title XVI benefits and reconsidering his entitlement to Title II benefits. The Commissioner agreed in his reply that this was the proper disposition of the case, and his Opposed Motion to Reverse and Remand [Docket No. 17] is therefore GRANTED to that extent.

Accordingly, the Court finds that the decision of the Commissioner is unsupported by substantial evidence, and it is therefore REVERSED pursuant to the fourth sentence of 42 U.S.C. § 405(g). The case is hereby REMANDED to the ALJ for reinstatement of the claimant's benefits under Title XVI, for reconsideration of the claimant's entitlement to benefits under Title II and for any other relief not inconsistent herewith. The claimant is the prevailing party in this action and the Court will therefore render a separate judgment in his favor pursuant to Fed. R. Civ. P. 58(b)(2)(B).

DATED this 14th day of December, 2009.



STEVEN P. SHREDER
UNITED STATES MAGISTRATE JUDGE